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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,334	11/14/2003	Chad McCormick	1506-310	9871

37374 7590 11/15/2005

INSKEEP INTELLECTUAL PROPERTY GROUP, INC  
2281 W. 190TH STREET  
SUITE 200  
TORRANCE, CA 90504

EXAMINER

GORMAN, DARREN W

ART UNIT PAPER NUMBER

3752

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/713,334	<b>Applicant(s)</b> MCCORMICK, CHAD	
	<b>Examiner</b> Darren W. Gorman	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) 6,7,12,14 and 15 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5,8-11,13 and 16-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06/17/05</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of species Group I in the reply filed on October 17, 2005 is acknowledged.

Although Applicant indicated that claims 1-6, 8-13 and 15-20 read on the above elected species, it has been determined that claims 1-5, 8-11, 13 and 15-20 are readable thereon.

2. Claims 6, 7, 12, 14 and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 17, 2005.

### ***Information Disclosure Statement***

3. The IDS filed on June 17, 2005 is hereby acknowledged and has been placed of record. Please find attached a signed and initialed copy of the PTO 1449.

It was noted that US Patent No. 3,921,912 to Hayes was previously cited on the form PTO-892 filed January 18, 2005. In order to prevent this citation from being duplicated on a patent issuing from this application, the duplicate citation on Applicant's IDS has been lined through.

### ***Claim Objections***

4. Claim 20 is objected to because of the following informalities: the recitation, "a water stream projecting from one said of said sprinkler" is unclear. Should this say "one side"?

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation, “wherein said stepped radial offsets are arranged at various angles to increase a boundary layer of fluid...” is unclear in view of the specification. The specification, see paragraph [0031], states that each step may be arranged at various angles to either decrease or increase the boundary layer of fluid. Then the specification expressly states that a nozzle with steps having ninety-degree angles produces a greater boundary layer than a nozzle with steps having forty-five degree angles. Is claim 13 reciting that each step is arranged at varying angles relative to each other? Is claim 13 reciting that one nozzle may have steps of a certain angle, while another nozzle may have steps of a different angle, and the choice of one nozzle vs. the other nozzle would effectively increase the boundary layer?

Claim 13 will be examined as best understood by the Examiner.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-5, 8-11, 13 and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Malcolm, US Patent Application Publication No. 2003/0218082.

Regarding claims 1-5, 8-11 and 13, Malcolm shows a nozzle detachably attachable (via threads 15) to the discharge end (10) of a conventional sprinkler (not shown), the nozzle comprising a substantially hollow, cylindrically shaped body (14) having a first end attached to a fluid source (10), a second end and a flow passageway (31) extending therebetween surrounded by an internal wall (32), and, in one embodiment (see Figure 2), a plurality of stepped, radial offsets (36a) formed along the internal wall such that an internal diameter of the nozzle decreases from the first end to the second end, whereby the offsets are arranged having a predetermined angle which increases a boundary layer of a fluid stream flowing therethrough, and hence decreases the flow rate of the boundary layer relative to the centerline fluid flow velocity (see paragraphs [0014] and [0015]). Note also that “orifice plate 20” would also read on one of the radial offsets as claimed, and that while the embodiment of Malcolm shown in Figure 2 only shows two radial offsets plus the orifice plate, there is nothing that precludes the nozzle taught by Malcolm from having more radial offsets than what is shown in the drawing. Malcolm further teaches that fins may be formed along the internal wall to reduce fluid turbulence in the center portion of the fluid stream (see paragraph [0016]). Malcolm further teaches that the overall effect of this nozzle structure on the water distribution from the nozzle is an improved

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water distribution and greater uniformity over the throw radius from the nozzle (see paragraph [0005]).

Regarding method claims 16-20, the structure of the nozzle shown by Malcolm, as discussed above with regard to apparatus claims 1-5, 8-11 and 13, in use, would inherently perform the method steps recited in the claims 16-20.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents to Rosic and Pitchford are cited as of interest.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901. The examiner can normally be reached on M-F 7:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Darren W Gorman  
Examiner  
Art Unit 3752

*DWG* 11/1/05  
DWG  
November 1, 2005

  
David A. Scherbel  
Supervisory Patent Examiner  
Group 3700